

Securities and Exchange Commission

§ 240.15b7-3T

amend Form BD (17 CFR 249.501) in accordance with § 240.15b3-1(a) to update any inaccurate information.

(b) A notice of withdrawal from registration filed by a broker or dealer pursuant to Section 15(b) of the Act (15 U.S.C. 78o(b)) shall become effective for all matters (except as provided in this paragraph (b) and in paragraph (c) of this section) on the 60th day after the filing thereof with the Commission, within such longer period of time as to which such broker or dealer consents or which the Commission by order may determine as necessary or appropriate in the public interest or for the protection of investors, or within such shorter period of time as the Commission may determine. If a notice of withdrawal from registration is filed with the Commission at any time subsequent to the date of the issuance of a Commission order instituting proceedings pursuant to Section 15(b) of the Act (15 U.S.C. 78o(b)) to censure, place limitations on the activities, functions or operations of, or suspend or revoke the registration of, such broker or dealer, or if prior to the effective date of the notice of withdrawal pursuant to this paragraph (b), the Commission institutes such a proceeding or a proceeding to impose terms or conditions upon such withdrawal, the notice of withdrawal shall not become effective pursuant to this paragraph (b) except at such time and upon such terms and conditions as the Commission deems necessary or appropriate in the public interest or for the protection of investors.

(c) With respect to a broker's or dealer's registration status as a member within the meaning of Section 3(a)(2) of the Securities Investor Protection Act of 1970 (15 U.S.C. 78ccc(a)(2)) for purposes of the application of Sections 5, 6, and 7 (15 U.S.C. 78eee, 78fff, and 78fff-1) thereof to customer claims arising prior to the effective date of withdrawal pursuant to paragraph (b) of this section, the effective date of a broker's or dealer's withdrawal from registration pursuant to this paragraph (c) shall be six months after the effective date of withdrawal pursuant to paragraph (b) of this section or such shorter period of time as the Commission may determine.

(d) Every notice of withdrawal filed with the Central Registration Depository pursuant to this section shall constitute a "report" filed with the Commission within the meaning of Sections 15(b), 17(a), 18(a), 32(a) (15 U.S.C. 78o(b), 78q(a), 78r(a), 78ff(a)) and other applicable provisions of the Act.

(e) The Commission, by order, may exempt any broker or dealer from the filing requirements provided in Form BDW (17 CFR 249.501a) under conditions that differ from the filing instructions contained in Form BDW.

[64 FR 25147, May 10, 1999, as amended at 64 FR 42595, Aug. 5, 1999]

§ 240.15b7-1 Compliance with qualification requirements of self-regulatory organizations.

No registered broker or dealer shall effect any transaction in, or induce the purchase or sale of, any security unless any natural person associated with such broker or dealer who effects or is involved in effecting such transaction is registered or approved in accordance with the standards of training, experience, competence, and other qualification standards (including but not limited to submitting and maintaining all required forms, paying all required fees, and passing any required examinations) established by the rules of any national securities exchange or national securities association of which such broker or dealer is a member or under the rules of the Municipal Securities Rulemaking Board (if it is subject to the rules of that organization).

[58 FR 27658, May 11, 1993]

§ 240.15b7-3T Operational capability in a Year 2000 environment.

(a) This section applies to every broker or dealer registered pursuant to Section 15 of the Act, (15 U.S.C. 78o) that uses computers in the conduct of its business as a broker or dealer. If you have a material Year 2000 problem, then you do not have operational capability within the meaning of Section 15(b)(7) of the Act (15 U.S.C. 78o(b)(7)).

(b)(1) You have a material Year 2000 problem under paragraph (a) of this section if, at any time on or after August 31, 1999:

(i) Any of your mission critical computer systems incorrectly identifies

any date in the Year 1999 or the Year 2000; and

(ii) The error impairs or, if uncorrected, is likely to impair, any of your mission critical systems.

(2) You will be presumed to have a material Year 2000 problem if, at any time on or after August 31, 1999, you:

(i) Do not have written procedures reasonably designed to identify, assess, and remediate any Year 2000 problems in mission critical systems under your control;

(ii) Have not verified your Year 2000 remediation efforts through reasonable internal testing of mission critical systems under your control;

(iii) Have not verified your Year 2000 remediation efforts by satisfying Year 2000 testing requirements imposed by self-regulatory organizations to which you are subject; or

(iv) Have not remediated all exceptions related to your mission critical systems contained in any independent public accountant's report prepared on your behalf pursuant to § 240.17a-5(e)(5)(vi).

(c) If you have or are presumed to have a material Year 2000 problem, you must immediately notify the Commission and your designated examining authority of the problem. You must send this notice to the Commission by overnight delivery to the Division of Market Regulation, U.S. Securities and Exchange Commission, 450 Fifth Street, NW, Washington, DC 20549-1002 Attention: Y2K Compliance.

(d)(1) If you are a broker or dealer that is not operationally capable because you have or are presumed to have a material Year 2000 problem, you may not, on or after August 31, 1999:

(i) Effect any transaction in, or induce the purchase or sale of, any security; or

(ii) Receive or hold customer funds or securities, or carry customer accounts.

(2) Notwithstanding paragraph (d)(1) of this section, you may continue to effect transactions in, or induce the purchase or sale of, a security, receive or hold customer funds or securities, or carry customer accounts:

(i) Until December 1, 1999, if you have submitted a certificate to the Commission in compliance with paragraph (e) of this section; or

(ii) Solely to the extent necessary to effect an orderly cessation or transfer of these functions.

(e)(1)(i) If you are a broker or dealer that is not operationally capable because you have or are presumed to have a material Year 2000 problem, you may, in addition to providing the Commission the notice required by paragraph (c) of this section, provide the Commission and your designated examining authority a certificate signed by your chief executive officer (or an individual with similar authority) stating:

(A) You are in the process of remediating your material Year 2000 problem;

(B) You have scheduled testing of your affected mission critical systems to verify that the material Year 2000 problem has been remediated, and specify the testing dates;

(C) The date by which you anticipate completing remediation of the material Year 2000 problem in your mission critical systems, and will therefore be operationally capable; and

(D) Based on inquiries and to the best of the chief executive officer's knowledge, you do not anticipate that the existence of the material Year 2000 problem in your mission critical systems will impair your ability, depending on the nature of your business, to ensure prompt and accurate processing of securities transactions, including order entry, execution, comparison, allocation, clearance and settlement of securities transactions, the maintenance of customer accounts, or the delivery of funds and securities; and you anticipate that the steps referred to in paragraphs (e)(1)(i)(A) through (C) of this section will result in remedying the material Year 2000 problem on or before November 15, 1999.

(ii) If the information contained in any certificate provided to the Commission pursuant to paragraph (e) of this section is or becomes misleading or inaccurate for any reason, you must promptly file an updated certificate correcting such information. In addition to the information contained in the certificate, you may provide the Commission with any other information necessary to establish that your mission critical systems will not have material Year 2000 problems on or after November 15, 1999.

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(2) If you have submitted a certificate pursuant to paragraph (e)(1) of this section, you must submit a certificate to the Commission and your designated examining authority signed by your chief executive officer (or an individual with similar authority) on or before November 15, 1999, stating that, based on inquiries and to the best of the chief executive officer's knowledge, you have remediated your Year 2000 problem or that you will cease operations. This certificate must be sent to the Commission by overnight delivery to the Division of Market Regulation, U.S. Securities and Exchange Commission, 450 Fifth Street, NW, Washington, DC 20549-1002 Attention: Y2K Compliance.

(f) Notwithstanding paragraph (d)(2) of this section, you must comply with the requirements of paragraph (d)(1) of this section if you have been so ordered by the Commission or by a court.

(g) For the purposes of this section:

(1) The term *mission critical system* means any system that is necessary, depending on the nature of your business, to ensure prompt and accurate processing of securities transactions, including order entry, execution, comparison, allocation, clearance and settlement of securities transactions, the maintenance of customer accounts, and the delivery of funds and securities; and

(2) The term *customer* includes a broker or dealer.

(h) This temporary section will expire on July 1, 2001.

[64 FR 42028, Aug. 3, 1999]

§ 240.15b9-1 Exemption for certain exchange members.

(a) Any broker or dealer required by section 15(b)(8) of the Act to become a member of a registered national securities association shall be exempt from such requirement if it: (1) Is a member of a national securities exchange, (2) carries no customer accounts, and (3) has annual gross income derived from purchases and sales of securities other than on a national securities exchange of which it is a member in an amount no greater than \$1,000.

(b) The gross income limitation contained in paragraph (a) of this section, shall not apply to income derived from

transactions (1) for the dealer's own account with or through another registered broker or dealer or (2) through the Intermarket Trading System.

(c) For purposes of this section, the term *Intermarket Trading System* shall mean the intermarket communications linkage operated jointly by certain self-regulatory organizations pursuant to a plan filed with, and approved by, the Commission pursuant to § 240.11Aa3-2 (Rule 11Aa3-2 under the Act).

(15 U.S.C. 78a *et seq.*, as amended by Pub. L. 84-29 (June 4, 1975) and by Pub. L. 98-38 (June 6, 1983), particularly secs. 11A, 15, 19 and 23 thereof (15 U.S.C. 78k-1, 78o, 78s and 78w))

[48 FR 53691, Nov. 29, 1983]

§ 240.15b9-2 Exemption from SRO membership for OTC derivatives dealers.

An OTC derivatives dealer, as defined in § 240.3b-12, shall be exempt from any requirement under section 15(b)(8) of the Act (15 U.S.C. 78o(b)(8)) to become a member of a registered national securities association.

[63 FR 59397, Nov. 3, 1998]

§ 240.15b11-1 Registration by notice of security futures product broker-dealers.

(a) A broker or dealer may register by notice pursuant to section 15(b)(11)(A) of the Act (15 U.S.C. 78o(b)(11)(A)) if it:

(1) Is registered with the Commodity Futures Trading Commission as a futures commission merchant or an introducing broker, as those terms are defined in the Commodity Exchange Act (7 U.S.C. 1, *et seq.*), respectively;

(2) Is a member of the National Futures Association or another national securities association registered under section 15A(k) of the Act (15 U.S.C. 78o-3(k)); and

(3) Is not required to register as a broker or dealer in connection with transactions in securities other than security futures products.

(b) A broker or dealer registering by notice pursuant to section 15(b)(11)(A) of the Act (15 U.S.C. 78o(b)(11)(A)) must file Form BD-N (17 CFR 249.501b) in accordance with the instructions to the form. A broker or dealer registering by notice pursuant to this section must